

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

FEDERAL INSURANCE COMPANY,

Plaintiff,

-against-

EXPEDITORS INTERNATIONAL OF
WASHINGTON, INC.; EXPEDITORS
INTERNATIONAL OCEAN; EXPEDITORS
INTERNATIONAL FRANCE SAS;

Defendants.

-----X

ECF CASE

ANSWER TO COMPLAINT

07 CIV. 3166 (PKC)

Third-Party Defendant, SOCIETE AIR FRANCE T/A AIR FRANCE, sued herein as AIR FRANCE, (herein after AIR FRANCE), by its attorneys, McDermott & Radzik, LLP, as and for its Answer to the Complaint states, upon information and belief, as follows:

1. Denies knowledge or information sufficient to form a belief as to the allegations contained in paragraphs 1, 3, 4, 5 and 8 of the Complaint.
2. Denies the allegations contained in paragraphs 6 and 7 of the Complaint.
3. Denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph 2 of the Complaint but admits Warsaw Convention applies as amended by MP-4 and the Montreal Convention.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

4. The action is governed by the Warsaw Convention as amended by MP 4 and the Montreal Convention and as such AIR FRANCE's liability is limited to either \$20 per kilo or 17 SDR's per kilo.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

5. This action is governed by all terms and conditions of the air waybill issued by defendant AIR FRANCE; the contract of carriage, including all applicable tariffs.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

6. Any loss or damage to plaintiff's goods, which is denied by defendant AIR FRANCE was caused by the act or default of others and as such AIR FRANCE is not liable.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

7. Plaintiff is not a party to the air waybill and as such is not the real party in interest entitled to bring this action.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE


8. Plaintiff did not make a claim to defendant within the required 14 days after delivery as required by the air waybill and Warsaw/MP 4 and the Montreal Convention.

WHEREFORE, the defendant, SOCIETE AIR FRANCE T/A AIR FRANCE, demands judgment dismissing the Third-Party Complaint, together with the costs and disbursements of this action and any other further relief this Court deems proper.

Dated: New York, New York
September 12, 2007

McDERMOTT & RADZIK, LLP
Attorneys for Third-Party Defendant
SOCIETE AIR FRANCE T/A AIR FRANCE

By:



William R. Connor III (WC-4631)
Wall Street Plaza
88 Pine Street 21st Floor
New York, New York 10005
212-376-6400
File No.: 51-07-118

TO: LAW OFFICES OF
DAVID L. MAZAROLI, ESQ.
Attorneys for Plaintiff
11 Park Place Suite 1214
New York, New York 10007
212-267-8480

CLYDE & CO US LLP
Attorneys for Defendant
FEDEX TRADE NETWORKS
TRANSPORT & BROKERAGE, INC.
405 Lexington Avenue
New York, New York 10174
212-710-3900

BADIAK & WILL, LLP
Attorneys for Defendants/
Third-Party Plaintiffs
EXPEDITORS INTERNATIONAL OF
WASHINGTON, INC., et al
106 Third Street
Mineola, New York 11501-4404
516-877-2225
Your Ref.: 07-T-002-RB

CHICANOWICZ, CALLAN, KEANE, VENGROW
& TEXTOR, LLP
Attorneys for Third-Party Defendant
HYUNDAI MERCHANT MARINE CO., LTD.
61 Broadway Suite 3000
New York, New York 10006
212-344-7042

COLLINS & FELDMAN
Attorneys for Third-Party Defendant
BURLINGTON NORTHERN SANTA FE RAILROAD
20 Vesey Street Suite 503
New York, new York 10007
866-434-4440

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
 : S.S.
COUNTY OF NEW YORK)

HENRIETTA SHIELDS, being duly sworn, deposes and says:


1. I am employed by the firm of McDermott & Radzik, LLP. attorneys for the Third-Party Defendant, SOCIETE AIR FRANCE T/A AIR FRANCE. I am not a party to this action, am over 18 years of age and reside at Queens, New York.
2. On September 12, 2007, I served the annexed Answer to Complaint and Rule 7.1 Statement on:

SEE ATTACHED SERVICE LIST

at the addresses designated by said attorneys for that purpose, by depositing true copies of same enclosed in a postpaid, properly addressed wrappers in an official depository under the exclusive care and custody of the United States Postal Services within the State of New York.


Henrietta Shields

Sworn to before me this
12th day of September, 2007


Notary Public

LORI J. QUINN
Notary Public, State of New York
No. 01QU5062709
Qualified in Nassau County
Commission Expires July 1, 2010

LAW OFFICES OF
DAVID L. MAZAROLI, ESQ.
Attorneys for Plaintiff
11 Park Place Suite 1214
New York, New York 10007
212-267-8480

CLYDE & CO US LLP
Attorneys for Defendant
FEDEX TRADE NETWORKS
TRANSPORT & BROKERAGE, INC.
405 Lexington Avenue
New York, New York 10174
212-710-3900

BADIAK & WILL, LLP
Attorneys for Defendants/
Third-Party Plaintiffs
EXPEDITORS INTERNATIONAL OF
WASHINGTON, INC., et al
106 Third Street
Mincola, New York 11501-4404
516-877-2225
Your Ref.: 07-T-002-RB

CHICANOWICZ, CALLAN, KEANE, VENGROW
& TEXTOR, LLP
Attorneys for Third-Party Defendant
HYUNDAI MERCHANT MARINE CO., LTD.
61 Broadway Suite 3000
New York, New York 10006
212-344-7042

COLLINS & FELDMAN
Attorneys for Third-Party Defendant
BURLINGTON NORTHERN SANTA FE RAILROAD
20 Vesey Street Suite 503
New York, new York 10007
866-434-4440